

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PLAN FOR RANDOM SELECTION OF GRAND AND PETIT JURORS
PURSUANT TO THE JURY SELECTION AND SERVICE ACT OF 1968¹

Pursuant to the Jury Selection and Service Act of 1968, Title 28 United States Code, Section 1861 et. seq., as amended, the plan heretofore adopted by this Court for the random selection of grand and petit jurors filed on April 27, 1979 as amended, is hereby revoked and rescinded and the following plan is hereby adopted by this Court, subject to approval by the Reviewing Panel of the United States Court of Appeals for the Fifth Circuit, and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

APPLICABILITY OF PLAN

This plan is applicable to the Eastern District of Louisiana which comprises thirteen (13) parishes, to which thirteen² (13) judgeships are authorized and regularly assigned.

POLICY

It is the policy of the United States and of this Court that all litigants in Federal Courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the District wherein the Court convenes. It is further the policy of the United States and of this Court that all citizens shall have the opportunity to be considered for service on grand and

petit juries in the District courts of the United States and shall have an obligation to serve as jurors when summoned for that purpose.

DISCRIMINATION PROHIBITED

No citizen shall be excluded from service as a grand or petit juror in the District Courts of the United States on account of race, color, religion, sex, national origin, or economic status.

MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

A Jury Commission is hereby established for this District. The Jury Commission shall consist of the Clerk, or a duly qualified Deputy Clerk designated by the Clerk, and a Citizen Jury Commissioner to be designated by the Court. The Clerk may use non-court personnel authorized by the court in the performance of functions set out in this plan.³ The Citizen Jury Commissioner shall not belong to the same political party as the Clerk, or designated Deputy Clerk, serving with him. The Citizen Jury Commissioner shall reside, during his tenure in office, in the Eastern District of Louisiana. The Citizen Jury Commissioner shall receive compensation at the rate of \$50.00 per day for each day necessarily employed in the performance of his duties, plus reimbursement, under standards provided by law, for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

The Jury Commission shall act under the supervision and control of the Chief Judge who is charged with the overall supervision of this plan, provided however

that the Chief Judge may, from time to time, by order duly filed in the Clerk's Office, designate a specific Judge who is assigned to supervise the day to day operation of this plan. The words "Chief Judge" wherever used in this plan shall mean the Chief Judge of this District, or in the event of his absence, disability, or inability to act, the active District Judge who is present in the District and has been in service the greatest length of time. The word "Court" as used herein, unless otherwise specifically indicated, shall mean the Chief Judge of this District or such other District Judge as the Chief Judge has, by order, in accordance with this plan, designated to supervise the operation of this plan.

RANDOM SELECTION FROM VOTER REGISTRATION LISTS

Voter registration lists, including any and all federal registrars' lists, represent a fair cross section of the community in the Eastern District of Louisiana. This Court is of the opinion that the rights of all citizens are substantially protected by the use of such lists as the source of selection of prospective jurors, therefore no other source is proposed. Accordingly, the names of all prospective grand and petit jurors serving on or after the effective date of this plan shall be selected at random in accordance with the procedures hereinafter set forth from such voter registration lists of all of the parishes within this District. This plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act of 1968 will be fully accomplished and implemented by the use of voter registration lists, as supplemented by the inclusion of subsequent registrants

to the latest practicable date, as the source of an at random selection of prospective grand and petit jurors who represent a fair cross section of the community. This determination is supported by all of the information this Court has been able to obtain after diligent effort on its part and after full consultation with the Fifth Circuit Jury Working Committee and the Judicial Council of the Fifth Circuit.

As required by the Judicial Conference of the United States, a report on the operation of the Jury Selection Plan will be completed within six months after each periodic refilling of the master jury wheel or when there is an amendment of the rules contained in the plan for the selection, qualification, excuse or exemption of jurors such as to affect the qualified jury wheel.

The report will be made on forms approved by the Judicial Conference and will be retained in the office of the Clerk as one of the jury wheel records.⁴

SELECTION PROCEDURE

A master jury wheel and a qualified jury wheel shall be maintained for this district. The names of prospective jurors to be placed in these wheels shall be randomly selected as hereinafter provided.

This plan's reference to random selection from a source list, which would include a voter registration list or a list of names contained in a master or qualified jury wheel, shall mean that only the first selected name shall be chosen by a purely random method and that each subsequent name for the drawing may be

systematically taken at regular intervals throughout the entire⁵ source list(s). Random selection from a source list, whenever required under this plan, shall be in accordance with the method and manner as follows:

Determining a "quotient". The Clerk or Jury Commissioner shall make the randomized selection by taking the total number of names on the source list and dividing that number by the minimum number of names to be selected, then rounding up to the next whole number⁶ and the number obtained will be the "quotient".

Determining a "Starting Number". After determining the "quotient", the Clerk or Jury Commission shall establish a "starting number". This number will locate on the source list the first name to be selected. The starting number will be drawn in a purely random fashion. The numbers used for this drawing should begin with the number one and end with the same number as the number of names on the source list.⁷

SELECTING THE NAMES BY MACHINE METHOD

The Judges of this Court find that electronic data processing methods can be advantageously used to assist in performing clerical work connected with juror selection. Accordingly, a properly programmed electronic data processing system or a combination system employing both electronic and manual methods may, at the Clerk's option and after consultation with the Chief Judge, be used to select names from voter registration lists, to select names from the district's master and

qualified wheels as directed by this plan and to record the names of prospective jurors on any papers or records needed by the Court to administer the provisions of this plan.

SELECTING THE NAMES BY MANUAL METHODS

When selection from a source list is made manually, the choosing of names shall be by counting names down the list, either in a numerical sequence if the names are numbered or-- if they are not numbered-- in any other logical consistent sequence. For this counting and selecting process the entire list must be covered and the specific names picked will be according to the established "quotient" and "starting number" formula described above. If the Court's master or qualified wheels are maintained on cards or slips, rather than in the form of lists or electronic tapes, names shall be drawn randomly by lot.

MASTER JURY WHEEL

The Jury Commission shall maintain a master jury wheel into which the names and addresses of all persons randomly selected from the voter registration lists shall be placed. The minimum number of names to be placed in the master jury wheel shall be in such a total number as may be deemed sufficient for at least a two (2) year period, but in no event less than $\frac{1}{2}$ of 1% of the total number of names on all parish voter registration lists.

The number of names drawn from each parish shall be substantially in the same proportion to the total number drawn from all parishes within the District as

the number of names on that parish's voter registration list bears to the total number of names on the voter registration lists for all parishes within the District. For the purpose of calculating from the voter registration lists the total number of voters in the District, the Clerk will add together the totals obtained for each parish. The number taken as the total for each parish may be based, at the Clerk's option, upon such total number as is furnished by the Registrar of Voters for the respective parishes or upon a manual or electronic count.

In parishes where a manual name selection procedure is necessary, the Clerk or Jury Commission is authorized to use personnel of parish Registrars of Voters or parish clerk's offices to perform the tasks of counting, selecting, and transcribing names according to the selection formula described in this plan.

The Chief Judge or the District Judge designated by the Chief Judge to supervise the operation of this plan may order additional names to be placed in the master wheel from time to time, as necessary and in accordance with the formula herein above described. The master jury wheel shall be emptied and refilled every four (4) years between November 7 and September 1.

DRAWING OF NAMES FROM MASTER JURY WHEEL

Names shall be drawn from the master jury wheel and qualification forms mailed, processed, etc. as follows: From time to time as directed by the Chief Judge or by the Judge designated by order of the Chief Judge to supervise the operation of this plan, the Clerk, a Deputy Clerk, or a District Judge, after reasonable public

notice, shall publicly draw or cause to be drawn at random from the master jury wheel the names of as many persons as may be required for jury service. The Clerk or Jury Commission shall prepare an alphabetical list of the names drawn, which list shall be disclosed only in accordance with this plan or the statute. The Clerk or Jury Commission shall cause to be mailed to every person whose name is drawn from the master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the Clerk or Jury Commission by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in

which it appears that there is an omission, ambiguity, or error in the form, the Clerk or Jury Commission shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the Clerk or Jury Commission within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the Clerk or Jury Commission forthwith to appear before the Clerk or Jury Commission to fill out a juror qualification form. A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification form before the Clerk or Jury Commission may, at the discretion of the District Court, except where his prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and

travel allowances paid to jurors under Section 1871 of Title 28 U.S. Code. At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the Jury Commission or the Clerk or the Court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the Clerk or Jury Commission may be noted on the juror qualification form and transmitted to the Chief Judge or such other District Court Judge as has been designated by order of the Chief Judge to supervise this plan.

EXCUSES ON INDIVIDUAL REQUESTS

This Court, by unanimous agreement of all of its judges, hereby finds that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the objects and purposes of the Act, and shall be granted upon individual request:

- (1) Persons actively engaged in the operation of a one-man business.
- (2) Persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service; or a person who is essential to the care of aged or infirm persons.
- (3) Full -time students.⁸

(4) All persons over seventy years of age at the time of executing the juror qualification form.

(5) Volunteer safety personnel who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a "public agency". "Public agency" for this purpose means the Government of the United States, the State, or any unit of local government, department, or instrumentality of any of the foregoing.

(6) Federal law enforcement officers, such as members of the Federal Bureau of Investigation, Postal Inspectors, Customs Agents, members of the United States Border Patrol, and Deputy United States Marshals, etc.⁹

EXEMPTIONS FROM JURY SERVICE

This Court, by unanimous agreement of all of its judges, finds that the exemption of the following groups or occupational classes is in the public interest and would not be inconsistent with the Act, and accordingly members of such groups are exempt from jury service:

(1) Members in active service in the Armed Forces of the United States.

(2) Members of the fire or police departments of the State or any subdivision thereof.

(3) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or the State, or any subdivision thereof, who are actively engaged in the performance of official duties. Public Officials as used

herein shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.

DETERMINATION OF QUALIFICATIONS

The qualifications for jury service, and the procedure with reference to same, shall be as follows:

Each District Court Judge on his own initiative or upon recommendation of the Clerk or Jury Commission is hereby authorized to determine, solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The Clerk shall enter such determination in the space provided on the juror qualification form and the alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

In making such determination the Judges shall deem any person qualified to serve on grand and petit juries in the District Court unless:

- (1) He is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;
- (2) He is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (3) He is unable to speak the English language;

(4) He is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(5) He has a charge pending against him for the commission of, or has been convicted in a State or Federal Court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored.

QUALIFIED JURY WHEEL

The Jury Commission shall maintain a qualified jury wheel or box, into which shall be placed the names of at least 300 persons drawn from the master jury wheel who are determined to be qualified as jurors and not exempt or excused under this plan. The qualified jury wheel shall be emptied and refilled initially, pursuant to the procedure herein prescribed, after the master jury wheel has been emptied and refilled, but not later than October 1, 1973, and thereafter every four years between the date of the November general election and the following October 1. Names shall be drawn from said wheel and summonses issued and served, and proceedings had as follows:

From time to time the Clerk, or a duly qualified and designated Deputy Clerk, shall, when ordered by a judge of this Court, publicly draw or cause to be drawn at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels.

Grand jurors shall be summoned for the first day of the session, and petit jurors shall be summoned as directed in the order of the drawing judge. Service of

the summons shall be by first class mail or, at the option of the Clerk, by certified or registered mail.¹⁰ Completed summons forms, at the option of the Clerk, may be mailed to jurors by the Clerk's Office, by a computer service center or by a commercial mailing service. The person making service shall attest that fact in his affidavit which shall be filed together with the addressees' receipts for the registered or certified mail. Alternatively, when personal service is needed the summons shall be delivered by the Clerk or his deputy to the United States Marshal, who shall make the service.

PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME OF AUTOMATED
SELECTION OF NAMES BY COMPUTER CENTER

Random drawings of starting numbers shall be publicly made in the Office of the Clerk at times to be publicly announced on the Court bulletin board.

Drawing of names of prospective jurors by automated selection methods shall be publicly made at the designated computer service center or at the Clerk's Office as the case may be. The location and approximate time of such drawings shall be publicly announced in a public place such as the Court's bulletin board.

The Office of the Clerk shall retain and, when requested, provide public access to the following documents:

(1) the Court's "Juror Selection Plan," including the Plan's verbatim description of the method used in determining the "quotient" and "starting number", and the selection systems.

(2) a copy of the Court's authorization and instruction order to any person or computer service organization which may be employed to carry out automated name selection tasks for the Court.

PROCEDURE IN EXCUSING AND ASSIGNING PERSONS
TO GRAND AND/OR PETIT JURY PANELS

Persons who have been summoned for service as jurors may be excused from service as follows:

Except as provided in Section 1865 of Title 28 U.S. Code, or as provided in this plan, no person or class of persons shall be disqualified, excluded, excused, or exempt from service as jurors: PROVIDED, that any person summoned for jury service may be (1) Excused, by the Court or the Clerk as directed by the Court, upon a showing of undue hardship or extreme inconvenience, at the conclusion of which such persons shall be summoned again for jury service under the preceding section of this plan,¹¹ or (2) excluded by the Court on the ground that such person may be unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown, or (5) excluded upon determination by the Court that his service as a juror would be likely to threaten the secrecy of the proceedings or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this paragraph unless the Judge, in

open court, determines that such is warranted and that exclusion of the person would not be inconsistent with Sections 1861 and 1862 of Title 28 U.S. Code. The number of persons excluded under clause (5) shall not exceed one percent of the number of persons who returned executed juror qualification forms during the period specified in this plan, between two consecutive fillings of the master jury wheel. The names of persons excluded under clause (5), together with detailed explanations for the exclusions, shall be forwarded immediately to the Judicial Council of this Circuit. Any person excluded from a particular jury under clauses (2), (3), or (4) of this paragraph shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

Whenever a person is disqualified, excused, exempt, or excluded from jury service, the Jury Commission shall note in the space provided on his juror qualification form, or on the juror's card drawn from the qualified jury wheel, the specific reason therefor.

The names of those jurors, grand and petit, who have been excused for the session for which they have been summoned for undue hardship or extreme inconvenience reasons will be put back in the qualified jury wheel where they will be subject to subsequent random selection.

Should there occur an unanticipated shortage of available petit jurors, a sufficient number of additional jurors shall be publicly drawn at random by the

Clerk from the qualified jury wheel and such persons whose names are so drawn shall be summoned for jury service as directed by the Judge ordering the panel.

The Judge handling the drawing of names of grand and petit jurors from the qualified wheel shall also handle all requests for excuses. However, requests for temporary excuse by petit jurors who have been called for a particular day will be referred by the Clerk to the judges in rotation.

Proceedings for empaneling the grand jury shall be conducted in closed session. The Presiding Judge shall select by lot, from the persons appearing in answer to the summons, twenty-three persons to constitute the grand jury for the ensuing session of the Court. From among these twenty-three persons, the Presiding Judge shall appoint a foreman and a deputy foreman. The grand jurors selected shall then be sworn and the Judge shall charge the grand jury as to its rights, powers, obligations and duties. The names of persons selected as grand jurors shall not be disclosed, except in accordance with this plan.¹²

The grand jury panel will be selected only from names drawn from the qualified jury wheel on order of a District Judge.

When there is an excess of jurors present for empaneling a grand jury and their presence is required for only one day, the Court shall, in its discretion, upon excusing the excess jurors, inform them that their names will be placed back in the qualified jury wheel, subject to subsequent random selection.

The cards containing the numbers of persons drawn from the qualified jury wheel for petit jury service for any session shall be placed in a daily jury wheel or box. Whenever a jury or juries are needed, the Deputy Clerk handling such matters shall draw from the daily wheel or box at random the number of names needed for the jury or juries. When there shall not be enough names left in the box to draw the needed number of names, the names then in the box shall be drawn and then the names previously drawn for other juries shall be replaced and the balance needed drawn from them. When the name of a person who has been excused temporarily is drawn out, it shall be replaced in the daily wheel to be later drawn at random for assignment to panels subsequent to the time to which the person was excused. When the name of a person who has been excused for the session, or for the balance of the session, or who is dead, or who has not been located, is drawn, it shall be put aside and not replaced and another name shall be drawn in its place.

From time to time, upon written direction of the Chief Judge or such other Judge who has, by order of the Chief Judge been designated to supervise the operation of this plan, the names of persons who have served during any session of the Court may be replaced in the qualified jury wheel, but not sooner than two years from the end of the session of last service.

DISCLOSURE OF RECORDS

The contents of records or papers used by the Jury Commission in connection with the jury selection process shall not be disclosed to anyone other than court

personnel except pursuant to this plan or as authorized by the Chief Judge or by the Judge designated by order of the Chief Judge to supervise this plan, or as may be necessary in the preparation or presentation of a motion under subsections (a), (b), or (c) of Section 1867 of Title 28 U.S. Code, until after the master wheel has been emptied and refilled pursuant to Section 1863(b)(4) of Title 28 U.S. Code, and all persons selected to serve as jurors before the master wheel was emptied have completed such service. The parties in a case shall be allowed to inspect, reproduce and copy such records or papers at all reasonable times during the preparation and pendency of such a motion.

The names of grand jurors, identifiable as such, shall not be disclosed to anyone other than court personnel, persons authorized to assist in performing clerical work in connection with jury selection and the United States Attorney, except upon order of the district judge in charge of the grand jury on a showing that exceptional circumstances have created a demonstrated need for disclosure.¹³

FORMS

The juror qualification form used in the implementation of this plan shall, in accordance with the Jury Selection and Service Act of 1968, be the form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

The foregoing plan was adopted by unanimous consent of the Judges of the United States District Court, Eastern District of Louisiana on December 3, 1980.

1. This is an updated copy of the Plan for Random Selection of Grand and Petit Jurors, adopted by the court on December 3, 1980, with amendments through October 2, 1996. No amendments have been adopted since October 2, 1996. Text that has been added or modified by amendment is designated by footnotes; text which has been deleted is not included. A complete copy of the original Plan and all amending orders is on file in the office of the clerk.

2. On October 6, 1997, P.L. 105-53 transferred a judgeship from the Eastern District of Louisiana to the Middle District of Louisiana. Our Jury Plan has not been amended to reflect this change.

3. Per Order of Court dated February 13, 1989

4. Per Order of Court dated October 2, 1996

5. Per Order of Court dated October 2, 1996

6. Per Order of Court dated October 2, 1996

7. Per Order of Court dated October 2, 1996

8. Per Order of Court dated May 10, 1996

9. Per Order of Court dated February 13, 1989

10. Per Order of Court dated July 29, 1983

11. Per Order of Court dated February 13, 1989

12. Per Order of Court dated October 30, 1981

13. Per Order of Court dated October 30, 1981